



# *Citizen Corps Volunteer Liability Guide*

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# FEMMA

# Citizen Corps Volunteer Liability Project

**A nationwide project to support emergency & disaster volunteer programs through research and development of online tools and good**

**practices:**

Workers' compensation

Civil (tort) liability

Licensure/certification/permits



# Project Steps

Interview Citizen Corps leaders

Survey state and local Citizen Corps Councils

Develop working relationships

Formulate questions

Research state statutes (substance and methodology)

Prepare tools and resources for publication



# 2007 Survey & Conversations Found....

Concern about liability for volunteer's acts

Concern about liability for injury to volunteers

Concern about volunteer licensure

Concern about interstate mobilization

Need for state specific information

Limited access to legal advisor

Limited time



# Questions Formulated

Who are emergency volunteers?

What functions do emergency volunteers perform?

What are the potential sources of liability?

Why does liability matter?

To whom does liability matter?

What liability protection is available?

How can emergency volunteer programs manage liability risk?



# Who are Emergency “Volunteers”?

Individuals (not always unpaid)

Nonprofit organizations

Businesses

Organized volunteer teams



# What Functions do Emergency “Volunteers” Perform?



# Sources of Liability?

*The volunteer may cause harm*

Bodily injury

Property damage

Vehicle accidents

Personal Injury

Intentional or wrongful acts

Professional errors/omissions

*The volunteer may be harmed*

Injury

Death

Discrimination

Illness

Property damage

*The law may limit the volunteer's activities*

Licenses

Certificates

Permits



# Why Does Liability Matter?

## Direct consequences of liability

- Damage awards
- Settlements
- Costs of legal defense
- Loss of property
- Loss of personnel

May be some protection

## Indirect consequences of liability

- Damage to reputation
- Loss of support & funding
- Loss of partnerships
- Diminished volunteer base
- Higher insurance premiums

No protection

Chilling effect



# To Whom Does Liability Matter?

**Governmental agencies**

**Organizers of volunteer programs**

**Business and nonprofit organizations**

**Employers of volunteers**

**Individual volunteers**

**Supervisors and trainers of volunteers**

**Donors of premises, equipment & supplies**



# What Liability Protection is Available?

**Good Samaritan Laws**

**Volunteer Protection Acts**

**Emergency Management and Homeland Security Acts**

**Governmental Immunity**

**Workers' Compensation Acts**

**License, Certificate or Permit Laws**

**Emergency Management Assistance Compact**

**Model Legislation**

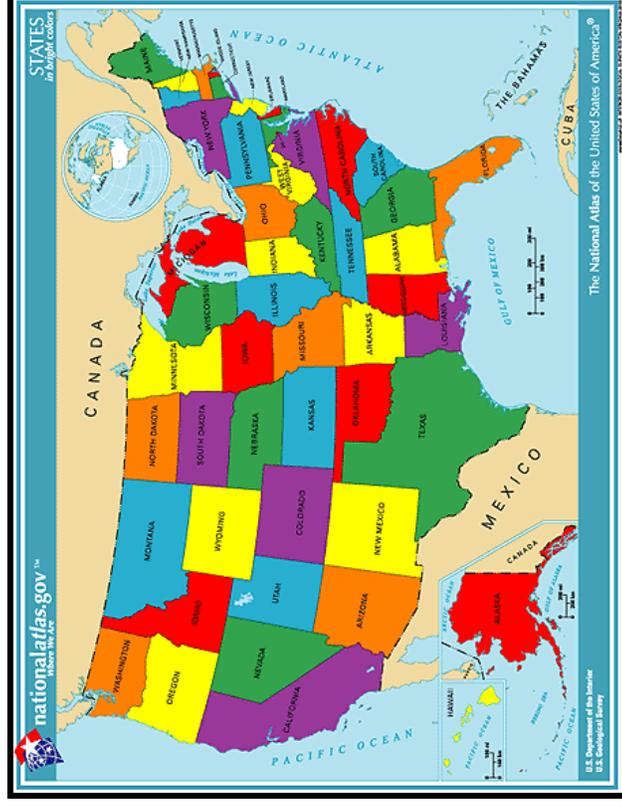
**Insurance and Contractual Agreements**



# What Liability Protection is Available?

Liability protection is primarily state law, and varies greatly

***The following descriptions are general – check with a legal advisor about your state’s particular laws.***



# What Liability Protection is Available?

## Good Samaritan Laws

**Limited immunity for individuals who assist others in emergencies, usually in settings where access to professional care is not immediately available**

Usually protect only individuals

Limited immunity protects only for ordinary negligence

Protection may be limited to those with specific credentials

Protection is not limited to declared emergencies & disasters



# What Liability Protection is Available?

## Volunteer Protection Acts

**Limited immunity for individuals who work as uncompensated volunteers for government agencies and nonprofit organizations**

Federal and many states' governments have VPAs

Protect volunteers registered with governments and nonprofit organizations but not the organizations

Protection is not limited to declared emergencies & disasters

Limited immunity protects only for ordinary negligence

Many limitations and qualifications



# What Liability Protection is Available?

## Emergency Management and Homeland Security Acts

Emergency Management and Homeland Security Acts may provide:

- *Limited immunity for emergency and disaster volunteers*
- *Compensation for injured emergency and disaster volunteers*
- *Temporary recognition of licenses, permits and certifications for emergency and disaster workers, both paid and unpaid*

Limited immunity protects only for ordinary negligence

Immunity is often limited to individuals

Usually required to register as a volunteer with an emergency response agency and be involved in authorized activities

May specifically protect owners of shelter premises and architects and engineers who inspect damaged premises



# What Liability Protection is Available?

## Governmental Immunity

**Limited immunity for a government and its representatives, usually set forth in a statute**

Often included in a “tort claims act” that describes how the government can be sued



# What Liability Protection is Available?

## Workers' Compensation Acts

**Require an “employer” to provide statutory benefits to “employees” who are injured on the job**

In some states, registered disaster or emergency volunteers are treated as “employees”

Benefits for disaster and emergency volunteers may be more limited than for regular employees, or may be subject to contingencies

In some states, local governments and agencies are permitted but not required to provide injury benefits to disaster or emergency volunteers



# What Liability Protection is Available?

## License, Certificate or Permit Laws

**In an emergency, may provide for temporary waiver of license, certificate or permit requirements or temporary recognition of licenses, certificates and permits from another jurisdiction**

An issue for paid and unpaid emergency and disaster workers working out of jurisdiction and retired professionals with no active license

Usually required to register with an emergency response agency and to be involved in authorized activities

State's governor often can limit scope of activities



# What Liability Protection is Available?

## Emergency Management Assistance Compact

An national disaster relief compact – all 50 states, the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands are signatories – triggered by a governor’s emergency declaration

- *Liability protection*
- *License, certificate and permit recognition*

Provides liability protection for an assisting state and that state’s officers or employees when they are aiding a requesting state

Licenses, certifications, and permits recognized by the assisting state are recognized by the receiving state, subject to limitations and conditions prescribed by the governor’s executive order.

. Must be part of the state’s EMAC response for EMAC protection



# What Liability Protection is Available?

## Model Legislation

### Uniform Emergency Volunteer Health Practitioners Act

- *License recognition*
- *Optional liability protection*
- *Optional workers' compensation protection*

Limited to the health care context

[www.uevhpa.org/](http://www.uevhpa.org/)



# What Liability Protection is Available?

## Insurance & Contractual Agreements

Local government insurance or self-insurance programs

Memoranda of agreement

Mutual aid agreements

### Note:

1. Protection depends on the terms of the insurance document or agreement
2. Agreements can also establish a basis for liability claims



# How Can Citizen Corps Programs Manage Liability Risk?

## Understanding the Law

Online research (statutes and pending legislation)

Consult with knowledgeable attorney or risk manager

Network with other programs

## Working within the Law

Constructing the program to qualify for existing protection

## Changing the Law

Building coalitions, making contacts and finding an advocate



# How Can Citizen Corps Programs Manage Liability Risk?

## Components of Risk Management

### Risk identification & assessment

*What can go wrong and the likely consequences*

### Risk “control”/mitigation

*Reduce losses and their consequences*

*Comply with the law*

*Enhance the program’s ability to fulfill its mission*

### Risk financing

*Pay for losses that occur*



# How Can Citizen Corps Programs Manage Liability Risk?

**Risk Financing - Nothing Provides 100% Protection**

- Protection under statutes
- Insurance
- Agreements with others

**NO GUARANTEES!**



# How Can Citizen Corps Programs Manage Liability Risk?

<b>Risk Identification &amp; Assessment</b>
Identify possible liability events
Assess the likelihood and consequences
Establish priorities



# How Can Citizen Corps Programs Manage Liability Risk?

## Risk “Control”/Mitigation

Screening and selecting volunteers & affiliates

Preparing volunteers for their roles, i.e. training

Managing volunteers, i.e. supervising



# Four Steps to Take Now

**Find a legal advisor**

**Go to your state's online statutes**

**Begin to establish a network**

**Go to the *Citizen Corps Volunteer Liability Guide***

[www.citizencorps.gov/councils/volunteer\\_mgmt.shtm](http://www.citizencorps.gov/councils/volunteer_mgmt.shtm)



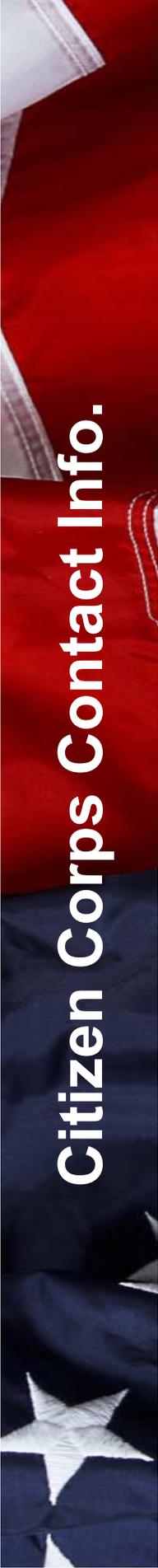


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# Citizen Corps Contact Info.

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**Website: [www.citizencorps.gov](http://www.citizencorps.gov)**

***Citizen Corps Volunteer Liability Guide:***

**[www.citizencorps.gov/councils/volunteer\\_mgmt.shtm](http://www.citizencorps.gov/councils/volunteer_mgmt.shtm)**

